

## **PART 25 — FOREIGN ACQUISITION**

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## ENGINEER FAR SUPPLEMENT (EFARS)

### **PART 25 — FOREIGN ACQUISITION**

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#### **SUBPART 25.2 — BUY AMERICAN ACT- CONSTRUCTION MATERIALS**

##### **25.202 Policy.**

(S-100) The HCA is delegated authority to make the determination regarding exceptions to the Buy American Act for construction materials for use in particular contracts when:

(a) the cost is unreasonable;

(b) the use is impracticable;

(c) the material is not reasonably available (that is not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality).

(S-101) The authority to make the determination is re-delegated as follows:

(a) The determination that the cost is unreasonable may be made by the Chiefs of Contracting Offices by applying the 6 percent evaluation factor in (b), without regard to the cost of the domestic material.

(b) The determination that the use is impracticable may be made by:

(1) Chiefs of Contracting Offices if the cost of the domestic material is less than \$10,000.

(2) Division Directors of Contracting if the cost of the domestic material is \$10,000 or more but not less than \$100,000.

(3) The PARC or designee at HQUSACE if the cost of the domestic material is \$100,000 or more.

(c) In accordance with the delegation from SARDA, the determination that a material is not reasonably available is not further redelegated.

##### **25.203 Evaluation of Offers**

DoD has determined that the cost of a particular construction material is unreasonable when the cost of

such material exceeds the cost of foreign material by more than 6 percent (including duty).

#### **SUBPART 25.3 — BALANCE OF PAYMENTS PROGRAM**

##### **25.302 Policy.**

(b)(ii)(a) The authority to make determinations of non-availability for procurements under \$500,000 is delegated to the following:

(1) Commander, Pacific Ocean Division;

(2) Commander, TransAtlantic Programs Center;

(3) Commander, South Atlantic Division;

(4) Commander, North Atlantic Division for Greenland;

(5) Commanders, Far East and Japan Districts.

(b) Requests for approval of non-availability determinations for procurements exceeding the delegated threshold shall be forwarded to HQUSACE, ATTN: CEPR.